

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 LEE V. QUILLAR,

12 Plaintiff,

13 v.

14 RICK M. HILL,

Defendant.

Case No. 01CV968 BTM (BEN)

**ORDER RE CERTIFICATE OF
APPEALABILITY**

15 Petitioner has filed a Notice of Appeal from the Court's Order Denying Motion for
16 Relief from Final Judgment. The Court construes this Notice of Appeal as a motion for the
17 issuance of a certificate of appealability. See *Hawks v. Kane*, No. C 04-01822 JSW, 2006
18 U.S. Dist. LEXIS 90879, at *1-2 (N.D. Cal. Dec. 6, 2006).

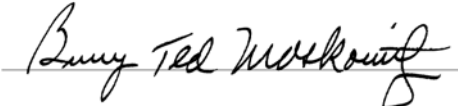
19 When a district court dismisses a habeas petition solely on procedural grounds, a
20 certificate of appealability will not issue unless the petitioner can demonstrate both (1) "that
21 jurists of reason would find it debatable whether the petition states a valid claim of the denial
22 of a constitutional right" and (2) "that jurists of reason would find it debatable whether the
23 district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484
24 (2000).

25 Petitioner has made no showing that reasonable jurists would find that the Court's
26 decision to deny his Rule 60(b)(6) motion is debatable or wrong. See *Haynes v. United*
27 *States*, No. PJM 02-3850, 2010 U.S. Dist. LEXIS 74017, at *4 (D. Md. July 21, 2010)
28 (denying certificate of appealability where petitioner sought to appeal denial of Rule 60(b)(6)

1 motion as a successive habeas appeal); *United States v. Sheppard*, No. 10-6679, 2010 U.S.
2 App. LEXIS 17014 (4th Cir. S.C. Aug. 9, 2010) (same). Accordingly, a certificate of
3 appealability is **DENIED**.

4
5 **IT IS SO ORDERED.**

6 DATED: December 30, 2010

7 
8
9 Honorable Barry Ted Moskowitz
United States District Judge